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7       UNITED STATES OF AMERICA,  
8                                  Plaintiff,  
9                                  v.  
10      BRIAN GUTIERREZ VILLASENOR,  
11                                  Defendant.

Case No. [18-cr-00437-SI-1](#)

**ORDER DENYING SECOND MOTION  
FOR COMPASSIONATE RELEASE  
AND GRANTING MOTION TO SEAL**

Re: Dkt. Nos. 61, 69, 71

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13       Brian Gutierrez Villasenor has filed a second motion for compassionate release.  
14 Villasenor's counsel filed a supplement to the motion on February 10, 2023, and the government  
15 filed an opposition on March 15, 2023. Villasenor did not file a reply. For the reasons set forth  
16 below, the Court DENIES the motion.

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18                                  **DISCUSSION**

19       Defendant Brian Gutierrez Villasenor is 31 years old and currently serving a 120-month  
20 sentence for his convictions on one count of possession with intent to distribute 50 grams or more  
21 of methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(A)(vii), and one count of  
22 transporting funds to promote unlawful activity, in violation of 21 U.S.C. § 1956(a)(2)(A).  
23 Villasenor was distributing cocaine and methamphetamine for a dark web site for at least four years,  
24 and when he was arrested officers found six firearms that belonged to him. At the time of his arrest,  
25 Villasenor was living with his mother and grandmother. Villasenor is incarcerated at FCI Lompoc  
26 and his projected release date is February 13, 2027.

27       In an order filed December 1, 2020, the Court denied Villasenor's first motion for  
28 compassionate release without prejudice to renewal in the event his situation "significantly

1 deteriorates.” Dkt. No. 60 at 1.

2 Villasenor has filed a second motion for compassionate release, asserting that his obesity  
3 and asthma continue to place him at higher risk of complications in the event he contracts COVID-  
4 19, and that he needs a different type of inhaler than he currently has to treat his asthma. Villasenor  
5 requests that he be released to live with his mother and grandmother, and he states that if released  
6 he would take care of his mother and grandmother and also get a job so he could help his family  
7 financially.

8 The government opposes Villasenor’s motion on numerous grounds. The government  
9 argues that Villasenor’s situation has actually improved since 2020 because he has received the  
10 COVID-19 vaccine, the Bureau of Prisons is effectively managing the pandemic at its facilities, and  
11 there are currently no COVID cases at FCI Lompoc. The government also argues that the factors  
12 under 18 U.S.C. § 3553(a) weigh against compassionate release because Villasenor has served less  
13 than half of his sentence for his convictions based on his participation in complex drug distribution  
14 scheme, and the government emphasizes the fact that Villasenor possessed numerous dangerous  
15 firearms at the time of his arrest. The government also notes that since the denial of Villasenor’s  
16 last compassionate release motion, he has incurred two significant disciplinary sanctions for being  
17 caught with a cell phone in September 2021 and using marijuana/THC in October 2022. Paulson  
18 Decl. Ex. 2 (Dkt. No. 71-2).<sup>1</sup>

19 For all of the reasons stated in the Court’s prior order, the Court finds that compassionate  
20 release is not appropriate, including that requiring Villasenor to serve less than half of his sentence  
21 does not satisfy “the need for the sentence imposed . . . to reflect the seriousness of the offense, to  
22 promote respect for the law, and to provide just punishment for the crime,” nor would it “afford  
23 adequate deterrence to criminal conduct.” 18 U.S.C. § 3553(a)(2)(A)-(C). In addition, the concerns  
24 presented by the COVID-19 pandemic have significantly abated since 2020 due to the availability  
25 of vaccines and boosters and the improved conditions at FCI Lompoc. While Villasenor asserts that  
26 he needs a different type of inhaler for his asthma, the record shows that he has received treatment

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28 <sup>1</sup> The Court GRANTS the government’s request to seal Villasenor’s medical and  
disciplinary records.

1 for his asthma, and the issues he raises with regard to his asthma do not rise to the level of meriting  
2 compassionate release. Finally, the Court is quite troubled by Villasenor's recent and serious  
3 disciplinary infractions, which raise concerns about his ability to perform well if he were granted  
4 early release.

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6 **IT IS SO ORDERED.**

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8 Dated: April 7, 2023

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SUSAN ILLSTON  
United States District Judge